IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS No 942/99 to 948/99
with
FIRST APPEALS No 951/99 to 973/99
with
FIRST APPEALS No 975/99 to 988/99

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

PROJECT MANAGER,ONGC LTD

Versus

STATE OF GUJARAT

Appearance:
MR AR MEHTA for Appellants
MR MUKESH PATEL AGP for Respondent No. 1
MR VC DESAI for Respondent No.2 in First Appeal No.955 of 1999.

CORAM : MR.JUSTICE M.R.CALLA
and

MR.JUSTICE D.H.WAGHELA

Date of decision: 03/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. This group of 44 First Appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure is directed against the common judgment and order dated 27.11.1997 whereby the Assistant Judge, Mehsana had decided 47 Reference Cases, i.e. Land Acquisition Reference Cases No.476 to 483, 485 to 514, 516 to 519, 522, 523, 554 to 556 of 1988, the Land Acquisition Reference Case No.476/88 being the main case. In fact, against this common judgment and order deciding 47 Reference Cases, 47 First Appeals have been filed before this Court by the ONGC. Out of this group of 47 First Appeals, 3 First Appeals No.949, 950 and 974/88 have been segregated from this group by the order dated 27.3.2001 as in those three matters, the L.R.s are to be brought on record. This is how against a common judgment order by which 47 Reference Cases were decided, we have today the group of 44 First Appeals before us.

2. The ONGC, Mehsana through its Project Manager proposed acquisition of lands for Colony Complex vide their letter dated 12.1.1981. The Special Land Acquisition Officer initiated the proceedings for acquisition of lands situated at villages Palavasna and Heduva Hanumant, taluka Mehsana. For this purpose, notification under Section 4 was issued in the gazette on 24.12.1981 and thereafter the notification under Section 6 was published in the gazette on 5.8.1983. The claimants had claimed compensation @ Rs.1,50,000/- per vigha and they also claimed for construction, pipeline, well etc. However, the Special Land Acquisition Officer by his award dated 22.5.1986 determined the rate of compensation as ranging between Rs.9/- to Rs.12/- per sq. mtr. and also awarded an amount of Rs.44,908/- for pipeline, well, construction etc. The Land Acquisition Officer had also awarded compensation under Sections 23 (1-A) and 23 (2) and interest under Section 28 of the Act in favour of the claimants. The claimants still felt dissatisfied and took the matter for Reference under Section 18 of the Act challenging the order dated 22.5.1986 passed by the Land Acquisition Officer in Land Acquisition Case No.3/81. The Reference Court considered the material and evidence particularly in para 19 of the impugned award and concluded that it was very difficult to hold that the market value of the surrounding area was

more than Rs.40/- per sq. mtr. and that the claimants had failed to bring any evidence on record to show that at the relevant time of issuing the notification under Section 4 of the Act, the market price of the acquired lands was more than Rs.40/- per sq. mtr. and the market value was fixed @ Rs.40/- per sq. mtr. It has been pointed out by Shri A.R.Mehta that the Reference Court had, in fact, relied upon the previous award which had been passed in Land Acquisition Reference Cases No.209 to 239 and 463 of 1988, the main case being Land Acquisition Reference Case No.232 of 1988 dated 1.8.1997 passed by the Assistant Judge, Mehsana whereby about 32 Land Reference Cases had been decided. The lands which were the subject-matter of acquisition in this previous award relied upon by the Reference Court in this case were of village Palavasana and the cases of acquisition of the lands of village Palavasana were decided on the basis of yet another previous award rendered in Land Acquisition Reference Case No.49/88. Against this award which was passed with regard to the lands of village Palavasana on 1.8.1997, First Appeals were filed before this Court and that group of First Appeals No.4531/97 to 4534/97 with 4536/97 to 4553/97 with 4556/97 to 4568/97 was decided on 4.5.1998 by the Division Bench whereby the rate was reduced from Rs.50/- to that of Rs.42/- per sq. mtr. This decision of the High Court in the said group of First Appeals was again taken to the Supreme Court by way of S.L.Ps. and Shri Mehta has produced before us a copy of the Supreme Court order passed in the said group of matters on 27.9.2000 whereby the Supreme Court has reduced the rate of compensation of agricultural lands from Rs.42/- to Rs.38/- per sq. mtr. The contents of this order passed by the Supreme Court are reproduced as under:

> "Leave granted. After hearing Sri Altaf Ahmed, learned Additional Solicitor General and considering the reasoning given by the Reference Court, and in particular the Reference to the Award of Rs.85/- per sq. metre, Land Acquisition Reference No.449/88 relating to village Heduva Hanumantpura and after noting the fact that the acquisition concerned in that case was in respect of 670 sq. metres and the fact that that village is more or less adjacent to this village and also keeping in mind the reasons given by the Reference Court and the High Court, we are of the view that, so far as agricultural lands are concerned, the compensation should be at Rs.38/- per sq. metre rather than Rs.42/- per sq. metre as awarded by the High Court.

In this connection, we have also kept in mind a document referred to by the Land Acquisition Officer at Sl.No.24 in his Award with regard to Block No.153 which works out at Rs.35/- per sq. metre.

The appeals are allowed in part, reducing the compensation for agricultural lands from Rs.42/- per sq. metre to Rs.38/- per sq. metre. The award of Rs.50/- per sq. metre for the non-agricultural lands will however remain."

It is very clear from the reading of this order that considering the reasons given by the Reference Court and in particular the reference to the Award of Rs.85/- per sq. mtr. in Land Acquisition Reference No.449/88 relating to village Heduva Hanumantpura and after taking note of the fact that the acquisition concerned in that case was in respect of 670 sq. mtr. and the fact that the village in question i.e. Heduva Hanumantpura, was more or less adjacent to this village, the Supreme Court found that the rates should be fixed at Rs.38/- per sq. mtr. rather than Rs.42/- per sq. mtr. and accordingly, the rate was reduced to that of Rs.38/- per sq. mtr. in respect of agricultural lands. We, therefore, find that the controversy which has been raised in the present group of First Appeals deserves to be decided on the basis of the aforesaid decision rendered by the Supreme Court because the villages Palavasana and Heduva Hanumantpura are more or less adjacent to each other. However, Mr.Mehta submitted that there must be further reduction from the rate of Rs.38/- per sq. mtr. also, because of the difference in the date of issue of the notification under Section 4 in these two cases. Mr.Mehta pointed out that in the case in which the Supreme Court has reduced the rate to Rs.38/- per sq. mtr., the notification was issued in the month of May 1982 whereas in the present case, the notification was issued in the month of December 1981 and there is a difference of about six months. We do not find that there should be further deduction in the rate of Rs.38/- per sq. mtr. because the difference in the issue of notifications under Section 4 is in close proximity within six months. Accordingly, these appeals are partly allowed to the limited extent that the rate of compensation as determined by the Reference Court shall stand reduced to Rs.38/- per sq. mtr. instead of Rs.42/- per sq. mtr. In all other aspects, the award would remain intact as it is. All these 44 First Appeals are partly allowed with no order as to costs. Registry

to draw decree accordingly.

3. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities by either of the parties.

Sd/- Sd/-

(M.R.Calla, J.) (D.H.Waghela,J.)

03.4.2001
(KMG Thilake)